

### Chapter highlights

- **Purpose:** This chapter defines sole source IT procurements and outlines sole source policies.
- **Key points:**
  - Sole source Information technology (IT) and telecommunications procurements are defined as procurements with only one solution to meet an agency's IT or telecommunications needs, and only one supplier can provide the technology goods and/or services required for the solution.
  - Proprietary IT solutions do not justify a sole source. Proprietary procurements are defined as those in which there is only one solution available to meet an agency or institution's IT or telecommunications needs; however, multiple suppliers may provide the technology goods and/or services required for the solution.

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### 16.0 Introduction

Sole source information technology (IT) and telecommunications procurements are defined as procurements where only one solution exists to meet an agency's IT or telecommunications needs and only one supplier can provide the technology and/or services required for the solution. Competition is not available for sole source procurements. Procurements less than \$5,000 are considered small purchases; therefore, sole source policies and procedures are not applicable. When a sole source procurement is contemplated for a technology purchase and the estimated total amount of the purchase exceeds an agency's delegated purchase authority, the Agency Procurement Request ([APR](#)) and Sole Source Justification Form (see Appendix A or [Sole Source Justification Form](#)) should be signed by the agency head or designee and submitted to VITA for approval at: <mailto:scminfo@vita.virginia.gov> prior to the agency taking any further action.

### 16.1 Sole source procurement justifications

As fair and open competition is the preeminent consideration in Commonwealth procurement, any agency or institution making a sole source procurement must clearly and convincingly demonstrate the need for doing so. Examples of circumstances which could necessitate sole source procurement for technology goods or services include:

- Products that are unique and possess specific characteristics or have a unique capability to provide a particular function and is available from only one supplier.
- A law or grant requires a single source.
- Recovery from a disaster or emergency.

Examples of circumstances which *do not* justify a sole source procurement for technology goods or services include:

- Single supplier's capability to deliver in the least amount of time.
- Small purchase procurements under \$5,000.
- Proprietary solutions. Proprietary procurements are defined as those in which there is only one solution available to meet an agency or institution's needs; however, multiple suppliers may provide the technology goods and/or services required for the solution. Proprietary solutions exist when the compatibility of equipment, replacement parts or service is the paramount consideration, but they should be procured using competition.

## 16.2 Sole source procurement process requirements

Below is a table of process requirements for sole source procurements of varying budget levels:

Sole source procurement level	Condition	Process
Under \$5,000	Not applicable	Not applicable
\$5,000 TO \$50,000	Must be a Non-Infrastructure Related Procurement Agency/Institution  Must Have Delegated Procurement Authority	Must be approved in advance by the agency head or designee.  Complete a Sole Source Procurement Approval Request Form (see Appendix A).
\$50,000 to \$99,999		The procurement must be conducted by VITA unless specifically delegated to the agency or institution.  Complete and submit a Sole Source Procurement Approval Request Form (see Appendix A).
\$100,000 and over	This amount is determined over the entire life cycle of the procurement/project.	The CIO must approve the sole source procurement prior to the commencement of the procurement.
Major IT projects	Any state agency IT project that (i) is mission-critical, (ii) has statewide application, or (iii) has a total estimated cost of more than \$1 million. (See <a href="#">§ 2.2-2001</a> of the <i>Code of Virginia</i> .)	VITA's Information Technology Investment Board (ITIB) must approve the sole source procurement prior to the commencement of the actual procurement.

## 16.3 How to conduct a sole source procurement

The Virginia Public Procurement Act, [§2.2-4303\(E\)](#), requires the following steps in conducting a sole source procurement:

- Prepare a written determination that there is only one source practicably available. Appendix A, Sole Source Procurement Approval Request Form, fulfills this requirement.
- Issue a written award notice that states:
  - only one source is practicably available
  - what is to be procured
  - name of selected supplier
  - date the contract was or will be awarded
- Post the award notice in a designated public area or newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first. Public notice may also be posted in eVA.

Sole source IT procurements that include a renewal provision, for which approval for multi-years was originally obtained, do not need to be re-approved until expiration of that original term.

#### **16.4 How to determine price reasonableness**

The agency or institution should conduct careful research to determine the fair market price of the IT good or service being procured and document the findings. To substantiate price reasonableness, review previous prices paid by other consumers and observe whether the market has remained stable or fluctuated for that particular IT or telecommunications good or service. Complete a Price Reasonableness Determination Form (see Appendix B) for the procurement file. Also see chapter 9 of this manual, Determining Price Reasonableness [\(add link\)](#).

#### **16.5 How to negotiate a sole source contract**

In a sole source procurement, a contract is negotiated and awarded without competitive sealed bidding or competitive negotiation. Therefore, it is the agency's or institution's responsibility to negotiate a contract that is in the Commonwealth's best interest. To be successful, the agency or institution should have extensive knowledge of the market, the supplier's position in the market and substantiated price reasonableness information for the technology or service being procured. Written documentation of the negotiations shall be included in the procurement file incorporating the Price Reasonableness Determination Form found in Appendix B.

#### **16.6 How to complete the sole source procurement file**

An executed contract and/or eVA-issue purchase order is required for sole source purchases. The procurement file for a sole source procurement over \$5,000 should contain the following documentation to support the sole source contract award:

- Written quote from offeror
- Sole Source Procurement Approval Request Form (Appendix A)
- Price Reasonableness Determination Form (Appendix B)
- Written negotiations documentation
- Written award notice
- Documentation of public posting of sole source award in a designated public area or newspaper of general circulation.
- Copy of eVA posting.
- Executed contract, if applicable, and copy of eVA purchase order.

**Appendix A**  
**Sole Source Procurement Approval Request Form**

**Complete this form when requesting a sole source procurement. Attach a Price Reasonableness Determination Form to this request, and route the completed forms to SCM at <mailto:scminfo@vita.virginia.gov>.**

Date \_\_\_\_\_  
Agency/Institution Name \_\_\_\_\_  
Contact Name \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
Description of Product or Non-Professional Service \_\_\_\_\_  
Estimated Total Cost of Sole Source \$ \_\_\_\_\_  
Supplier Name \_\_\_\_\_

**JUSTIFICATION:**

1. Explain why this is the only product or service that can meet the needs of the agency or institution.
  
  
  
  
  
2. Explain why this supplier is the only practicably available source from which this product or service can be obtained, and specify that this product or service is not available on an existing statewide contract.
  
  
  
  
  
3. Document research conducted to prove the price of the product or service is reasonable.

**CERTIFICATION:**

To the best of my knowledge, information and belief, the technology product or service sought by the agency meets all of the criteria for sole source procurements established in §2.2-4304 of Title 2.2 of the Code of Virginia.

Signed \_\_\_\_\_  
Agency Head (for non-infrastructure goods/services)  
Local Area Coordinator/Regional Service Director (for infrastructure goods/services)

**APPROVAL:**

Signed \_\_\_\_\_  
VITA Supply Chain Management

Date \_\_\_\_\_

**Appendix B**  
Price Reasonableness Determination Form

**Add this documentation to your procurement file to demonstrate your agency's efforts to determine price reasonableness. This is required for sole source determinations, cooperative procurements (including GSA) and emergency procurements.**

Today's Date \_\_\_\_\_  
 Agency/Institution Name \_\_\_\_\_  
 Contact Name \_\_\_\_\_  
 Telephone Number \_\_\_\_\_  
 Project Name or Identifier \_\_\_\_\_

1. *Why is competition not used for this procurement?*
  
2. *What is the product?*
  
3. *What was determined to be the market price?*
  
4. *How was the market price determined? (Select from list below.)*

Price Competition	<input type="checkbox"/>
Catalog or established price list	<input type="checkbox"/>
GSA contracts or pricing agreements	<input type="checkbox"/>
Price based on prior competition	<input type="checkbox"/>
Sales of the same item to other purchases	<input type="checkbox"/>
Historical prices	<input type="checkbox"/>
Independent estimate	<input type="checkbox"/>
Comparison with prior purchase of same or similar product	Contract #
	Vendor Name
	Contract Date
	Quantity
	Unit
	Unit Price
Other	

Signed \_\_\_\_\_  
 (Contracting Officer)